

## RACING AND GAMING COMMISSION[491]

### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Iowa Racing and Gaming Commission hereby adopts amendments to Chapter 6, "Occupational and Vendor Licensing," Iowa Administrative Code.

This rule making establishes new rule 491—6.13(99D,99F,272D), which sets forth the requirements for the receipt of certificates of noncompliance from the centralized collection unit of the Department of Revenue for the collection of debt. Subsequent rules are renumbered, and cross references are updated accordingly.

Pursuant to Iowa Code section 17A.4(3), the Commission finds that notice and public participation are impracticable because of the need to implement legislation that is in effect relating to collection of state debt.

These amendments were Adopted and Filed Emergency and became effective March 23, 2009. Pursuant to Iowa Code section 17A.5(2)"b"(2), the Commission has determined that the adoption of new rule 491—6.13(99D,99F,272D) is required by statute enacted in 2008 and that the rule's immediate effective date is necessary to carry out the purpose of the statute. This rule making confers a benefit on the public by providing a method of collecting debt.

These amendments are intended to implement Iowa Code chapters 99D, 99F and 272D.

These amendments became effective March 23, 2009.

The following amendments are adopted.

ITEM 1. Renumber rules **491—6.13(99D,99F)** to **491—6.28(99D)** as **491—6.14(99D,99F)** to **491—6.29(99D)**.

ITEM 2. Adopt the following new rule 491—6.13(99D,99F,272D):

#### **491—6.13(99D,99F,272D) Receipt of certificate of noncompliance from the centralized collection unit of the department of revenue.**

**6.13(1)** Upon the commission's receipt of a certificate of noncompliance, a commission representative shall initiate procedures for the suspension, revocation, or denial of issuance or renewal of licensure to an individual. A notice of intended action shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305.

**6.13(2)** The effective date of suspension or revocation, or denial of the issuance or renewal of a license, as specified in the notice, shall be no sooner than 30 days following service of the notice upon the licensee or applicant.

**6.13(3)** The filing of a district court action by a licensee or applicant challenging the issuance of a certificate of noncompliance shall automatically stay any administrative action. Upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the commission, the intended action will proceed as described in the notice. For purposes of determining the effective date of suspension or revocation, or denial of the issuance or renewal of a license, only the number of days before the action was filed and the number of days after the action was disposed of by the court will be counted.

**6.13(4)** Upon receipt of a withdrawal of a certificate of noncompliance from the centralized collection unit, the commission representative shall immediately reinstate, renew, or issue a license if the individual is otherwise in compliance with licensing requirements.

**6.13(5)** All commission fees for applications or license renewals must be paid by licensees or applicants before a license will be issued or renewed.

ITEM 3. Amend renumbered subrule 6.18(1) as follows:

**6.18(1)** Licensed owners and lessees wishing to race under a kennel/stable name may do so by applying for a license with the commission on forms furnished by the commission. All kennel/stable

names must be licensed with the commission on forms furnished by the commission, and in accordance with the requirements of ~~491—6.16(99D)~~ 491—6.17(99D).

ITEM 4. Amend renumbered subrule 6.20(1) as follows:

**6.20(1)** A partnership is defined as a formal or informal arrangement between two or more persons to own a racing animal. All partnerships, excluding husband and wife, must be licensed with the commission on forms furnished by the commission, and in accordance with the requirements of ~~491—6.16(99D)~~ 491—6.17(99D).

ITEM 5. Amend renumbered subrule 6.21(1) as follows:

**6.21(1)** All corporations must be duly licensed by the commission on forms furnished by the commission, and in accordance with the requirements of ~~491—6.16(99D)~~ 491—6.17(99D). In addition, any stockholder owning a beneficial interest of 5 percent or more of the corporation must be licensed as an owner. The corporation must submit a complete list of stockholders owning a beneficial interest of 5 percent or more.

ITEM 6. Amend renumbered subrule **6.28(1)**, second and third unnumbered paragraphs, as follows:

If the results show a reading of 0.05 percent alcohol content or more, the licensee shall not be permitted to continue duties for that day. For a second violation, the licensee shall not be permitted to continue duties for that day and then shall be subject to fine or suspension by the board or commission representative. For a subsequent violation, the licensee may be subject to procedures following positive chemical analysis (see ~~6.27(3)~~ 6.28(3)).

If the results show a reading of 0.10 percent alcohol content or more, the licensee is subject to fine or suspension by the board or commission representative. For a subsequent violation, the licensee may be subject to procedures following positive chemical analysis (see ~~6.27(3)~~ 6.28(3)).

ITEM 7. Amend renumbered subrule 6.28(2), introductory paragraph, as follows:

**6.28(2)** *Drug prohibition/body fluid test.* Licensees whose duties require them to be in a restricted area, as defined in subrule ~~6.27(1)~~ 6.28(1), of a racing facility shall not have present within their systems any controlled substance as listed in Schedules I to V of U.S.C. Title 21 (Food and Drug Section 812), Iowa Code chapter 124 or any prescription drug unless it was obtained directly or pursuant to valid prescription or order from a duly licensed physician who is acting in the course of professional practice. Acting with reasonable cause, a commission representative may direct the above licensees to deliver a specimen of urine or subject themselves to the taking of a blood sample or other body fluids at a collection site approved by the commission. In these cases, the commission representative may prohibit the licensee from participating in racing until the licensee evidences a negative test result. Sufficient sample should be collected to ensure a quantity for a split sample when possible. A licensee who refuses to provide the samples herein described shall be in violation of these rules and shall be immediately suspended and subject to disciplinary action by the board or commission representative. All confirmed positive test costs and any related expenses shall be paid for by the licensee. Negative tests shall be at the expense of the commission.

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